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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,294	06/15/2005	Christophe Rousselle	102792-355/10993P6	6480

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EXAMINER	
KO, STEPHEN K	

ART UNIT	PAPER NUMBER
1792	

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10/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/510,294	ROUSSELLE, CHRISTOPHE	
	Examiner	Art Unit	
	STEPHEN KO	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,13,15 and 16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11, 13, 15-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 and 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitations "a fabric inside a fabric treatment machine" in line 6. It is unclear about what specific step it is claiming. It is assumed to be "placing a fabric inside a fabric treatment machine" respectively for examination purpose.

4. Claim 16 recites the limitations "The process according to claim 10, wherein …" is confusing as claim 10 is a device claim. It is assumed to be " the device according to claim 10, wherein..." for examination purpose.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 4-11, 13 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Grand et al (US 3,698,095).

For claims 1-2, 4, 8, and 11, Grand et al teach a process of utilizing a fiber conditioning article for transferring fabric treatment agent to a laundry (abstract)

comprising folding a flexible covering sheet (read as flexible substrate, Fig.1, #14, col.3, L.4) ,containing conditioning agent (read as fabric treatment agent, Fig.1, #17, col.3, L.6), inwardly over a cylindrical form retaining base (Fig.1 and Fig.2, #13, col.3, L.4) of a cylindrical paper board tube (read as rigid support, Fig.1 and Fig.2, #14, col.3, L.4); and placing the conditioning article (read as ridge support/flexible substrate, abstract) and the laundry (read as fabric, abstract) into a dryer (read as fabric treatment machine, abstract) for tumbling contact (read as operating the fabric treatment machine, abstract). Note that the cylindrical paper board tube is a frame and is smaller than the flexible covering sheet in width (Fig.1).

For claim 5, note that the cylindrical paper board tube is in cylindrical shape (read as endless frame, Fig.1 and Fig.2, #13, col.3, L.4).

For claim 6, note that the flexible covering sheet comprises fibers (read as fibrous material, col.4, L.42).

For claim 7, note that the flexible covering sheet is a sheet (Fig.4).

For claim 9, note that the laundry is brought into tumbling contact (read as agitating, abstract) with the conditioning article causing the transfer to the laundry of softening agent (abstract).

Regarding claims 10 and 13, note that a fiber conditioning article (read as a device or a kit, title) comprises a flexible covering sheet (read as flexible substrate, Fig.1, #14, col.3, L.4) containing a conditioning agent (read as fabric treatment agent, Fig.1, #17, col.3, L.6), wherein the flexible covering sheet folded inwardly over a

cylindrical form retaining base (Fig.1 and Fig.2, #13, col.3, L.4) of a cylindrical paper board tube (read as rigid support, Fig.1 and Fig.2, #14, col.3, L.4).

For claims 15, note that Grand et al teach the step of providing the flexible covering sheet is in a substantially flat orientation before the flexible covering sheet is attached on the cylindrical paper board tube (Fig.3 and Fig.4).

For claim 16, note that the flexible covering sheet is in a substantially flat orientation itself (Fig.3, and Fig.4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grand et al (US 3,698,095) in view of Hendrickson et al (US 4,254,139).

Grand et al teach a process for delivering a fabric treatment agent to a fabric cited above. Not that Grand et al teach a process, wherein the fabric treatment machine can be other tumbling device instead of a laundry dryer.

Grand et al do not teach a process wherein the fabric treatment machine is a washing machine.

Hendrickson et al teach a process for dispensing conditioner to fibrous materials (read as fabric, abstract) comprising placing a conditioner dispensing article (read as ridge support/flexible substrate, abstract) in other laundry tumbling apparatus such as washing machine instead of a laundry dryer (col.6, L48-50).

Since Grand et al and Hendrickson et al both describe a process for delivering a fabric treatment agent to a fabric in other laundry tumbling apparatus other than a laundry dryer and Hendrickson et al indicate washing machine as an example of the other laundry tumbling apparatus, one skilled in the art at the time the invention motivated by Hendrickson et al would have found obvious to utilize the process of Grand et al to deliver a fabric treatment agent to a fabric in a washing machine with the reasonable expectation of success.

Grand et al and Hendrickson et al do not teach a process wherein the temperature of the water in the washing machine is greater than or equal to 40°C.

Regarding claim 3 reciting the temperature of the water in the washing machine is greater than or equal to 40°C, it is noted that the temperature of the water is result effective, because the temperature affects the rate of conditioning composition removed from a substrate, and one skilled in the art would modify the temperature of the water to

achieve optimum result, consult, *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

9. Applicant's arguments filed 11th July 2008 have been fully considered but they are not persuasive. Applicant argues that (a) the paper substrate mentioned in Grand et al is not properly understood to be a frame; (b) the invention disclosed in Grand et al do not have the benefits or do not perform as applicant's invention; and (c) Hendrickson only teaches exposing one surface and not both surface of his article and cannot move amongst the fabric articles within the fabric treatment machine. Regard to applicant argument (a), it is noted that the features upon which applicant relies (i.e., the support as defined herein comprises a frame. Most preferably, the frame is an endless frame. More preferably, a part of the flexible substrate is attached, preferably releasably attached, to the frame. Suitably, securing the flexible substrate in a frame may increase and maintain the effective surface area of the flexible substrate for contacting laundry during use, compared to a substrate not secured in a frame. Suitably, increased amounts of fabric treatment agent may be dispersed from and more uniformly throughout the laundry from the device compared to a flexible substrate not secured in a frame (paragraph [0025] of the (published) specification); In the alternative where the rigid support attaches to the flexible substrate then it may take simple forms such as a cross or a frame (paragraph [0026] of the published specification; and a non-woven cellulose derived cloth having surfactant, solvent and fragrance impregnated held in a rigid oval-shaped plastic frame (paragraph [0056] of the (published specification)) are

not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding to applicant argument (b), since all the claimed elements are found in the prior art, the prior art will have the same benefits as applicant's invention. Regarding applicant's argument (c), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN KO whose telephone number is (571)270-

3726. The examiner can normally be reached on Monday to Thursday, 7:30am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on 571-272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
/Michael Kornakov/
Supervisory Patent Examiner, Art Unit 1792